MERGERS (TELECOMMUNICATIONS): THE MCI WORLDCOM / SPRINT CASE

Subject: Mergers

Industry: Telecommunications

Parties: MCI WorldCom
Sprint

Source: Commission Statement IP/00/174, dated 21 February 2000

(Note. The full or second-phase investigation into merger proposals is still sufficiently uncommon to merit special attention; and, in the present case, it will be important to know what market share the merged companies would have in Europe and the extent to which Internet connectivity would be affected. The usual problem with external mergers will remain: whether a merger between two non-European entities can be totally prohibited by the European authorities. Relations between the US and EU authorities, which are collaborating in this case, will probably be kept in good repair if the Commission concentrates on the conditions which it would be reasonable to impose if the merger as such is not in the best interests of the common market.)

The Commission has decided to open a full investigation into the proposed merger between telecom companies MCI WorldCom and Sprint. The Commission will make a detailed assessment of the impact of the transaction on competition conditions in various areas of the telecom industry. More particularly, the focus areas of the investigation will be the provision of top level connectivity services in the Internet (that is, those networks to which anybody must directly or indirectly have access to have universal reach on the Internet), of global telecommunication services to multinational companies and of termination in the US of international voice telephony calls. A final decision by the Commission is expected by early July.

MCI WorldCom is a global telecommunication company. It provides a wide range of telecommunications services to businesses and consumers, including local, long distance and international calls, freephone, calling card and debit card services. MCI WorldCom also provides, mainly through its subsidiary UUNet, Internet services. Sprint provides in the USA local, long-distance, and wireless communications and Internet services. Sprint's activities in Europe are largely conducted through its participation in Global One, a joint venture with Deutsche Telekom and France Telecom.

The Commission has raised serious doubts as to the compatibility of the proposed merger between MCI WorldCom and Sprint mainly because of its impact on competition in the market for top level Internet connectivity. In its 1998 WorldCom/ MCI decision, the Commission found that the combination of MCI's and WorldCom's Internet activities would have led to the creation of a dominant position on the market for top-level connectivity. This merger was

allowed to go through only after MCI had undertaken to divest its Internet business. The transaction under review raises similar issues with MCI WorldCom still enjoying an undisputed leadership role and Sprint being probably the second player in this market.

The Commission will also investigate the effect on competition the notified transaction may have with regard to the market for the provision of global telecommunications services to multinational companies where together with the Concert alliance the merged entity would appear to control the majority of the market. The Commission will also look at how the market for international voice telephony on the EU/US route may be affected as the notified merger may lead to MCI WorldCom / Sprint and AT&T having bottleneck control on the US-end for termination of international voice telephony traffic.

On 2 February 2000, the notifying parties submitted the undertaking that Sprint would use every endeavour to complete, without undue delay, its withdrawal from the Global One joint venture. The parties argued that the proposed commitment would remove any concerns regarding the compatibility of the notified concentration as regards any affected market (notably global telecommunications services to multinational companies, international voice telephony and Internet services). However, given the negligible involvement of Global One in the market for top level Internet connectivity, this undertaking could not remove the serious doubts raised by the notified operation.

Finally, pursuant to the bilateral agreement of 1991 on antitrust co-operation between the European Commission and the United States of America, the European Commission and the Department of Justice have been collaborating and will continue to do so, especially if the two authorities identify common competition concerns which may require a jointly pursued remedial action. ■

Fiscal State Aids

In a recent statement concerning the control of fiscal state aids, Commissioner Monti said: "It is of course disappointing that almost four years after the informal Council in Verona - which marked the beginning of a concerted effort to tackle harmful tax competition in the Community - and more than two years after the agreement of 1 December 1997 on a package including the Code of Conduct for Business Taxation, considerable uncertainty still surrounds the implementation of that package in spite of the determination shown by most Members States and by the Commission. I have instructed the Commission's Competition Department to examine all the relevant cases of fiscal state aids in business taxation, so as to allow the Commission to comply fully and promptly with its own institutional obligations. This work is by no means an interference with Member States' competence in tax matters. The Commission has exclusive powers to control State aid in the Community and the Member States themselves have repeatedly asked the Commission to exercise these powers also in the area of fiscal state aids." (Source: Commission Statement IP/00/182, dated 23 February 2000.)